

13 VAC 5-51-10. Incorporation by reference. (Repealed.)

~~A. The following document is adopted and incorporated by reference to be an enforceable part of this chapter:~~

~~The BOCA National Fire Prevention Code/1996, Tenth Edition, hereinafter referred to as "BNFPC," published by Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795.~~

~~B. The following changes shall be made to the BNFPC for its use as an incorporated document in this chapter.~~

13 VAC 5-51-20. BNFPC Section F-101.0 General. (Repealed.)

~~A. Change subsection F-101.1 to read:~~

~~F-101.1. Title: These regulations shall be known as the Virginia Statewide Fire Prevention Code, hereinafter referred to as "this code." This code contains provisions of the BNFPC as published by BOCA International, Inc., and provisions developed by the Virginia Fire Services Board and the Virginia Board of Housing and Community Development which change provisions of the BNFPC. Where conflicts occur between unchanged and changed provisions of the BNFPC, the changed provisions shall govern.~~

~~Note: The Virginia Statewide Fire Prevention Code as on file with the Virginia Code Commission sets out the changed sections of the BNFPC using Virginia Administrative Code (VAC) section numbering and correlates those changes to conform to the BNFPC section numbering. Replacement pages for the BNFPC containing the changed sections marked in the margin with a double line may be obtained from DHCD.~~

~~B. Change subsection F-101.2 to read:~~

~~F-101.2. Scope: These regulations provide for statewide standards to be complied with to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling, and use of substances, materials and devices, wherever located. This code also prescribes regulations for the handling, storage and use of explosives and blasting agents.~~

~~The SFPC shall apply to all buildings and structures as defined in the Uniform Statewide Building Code Law, Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia. The SFPC shall supersede any fire prevention regulations previously adopted by a local government or other political subdivision. When any provision of this code is found to be in conflict with the USBC, OSHA, or statute, that provision of the SFPC shall become invalid. Wherever the words "building code" appear they shall mean the applicable USBC.~~

~~C. Change subsection F-101.3 to read:~~

~~F-101.3. Relationship to USBC: The USBC shall not supersede provisions of this code to be complied with in existing structures, provided such provisions of this code shall not impose requirements that are more restrictive than those of the USBC under which the structures were constructed. Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of such structures shall be subject to the USBC.~~

~~Inspections of structures other than state owned structures under construction and the review and approval of construction documents for these structures for enforcement of the USBC shall be the sole responsibility of the appropriate local building inspectors. Upon completion of such structures, responsibility for fire safety protection shall pass to the code official in those localities which enforce this code or to the State Fire Marshal in those localities which do not enforce this code.~~

~~D. Add subsection F 101.3.1 to read:~~

~~F 101.3.1. Inspections for USBC requirements: The code official shall require that buildings subject to the requirements of the USBC subsections 3402.3, 3402.4, 3402.5, 3402.6, 3402.7, 3402.10, 3402.12, 3402.13 and 3402.14 comply with the provisions of those subsections.~~

13 VAC 5-51-30. BNFPC Section F-102.0 Applicability. (Repealed.)

~~A. Change subsection F 102.1 to read:~~

~~F 102.1. General: The provisions of this code shall apply to all matters affecting or relating to structures, processes and premises as set forth in Section F 101.0.~~

~~B. Change subsection F 102.3 to read:~~

~~F 102.3. Application to structures: Structures which were constructed prior to regulation under the USBC shall comply with the maintenance requirements of this code to the extent that equipment, systems, devices, and safeguards relating to the construction of the structure and the equipment therein, which were provided when constructed, or required or regulated under a code in effect at the time of construction of the structure, shall be maintained. Such structures, if subject to the state fire and public building regulations in effect prior to March 31, 1986 (Virginia Public Building Safety Regulations, VR 394 01 05), shall also be maintained in accordance with those regulations.~~

~~Structures which were constructed under any edition of the USBC shall comply with the maintenance requirements of this code to the extent that the equipment, systems, devices, and safeguards required or regulated under the code which governed the construction of the structure shall be maintained.~~

~~C. Add subsection F 102.3.1 to read:~~

~~F 102.3.1. State structures: This code shall be applicable to all state owned buildings and structures. Every agency, commission or institution of this Commonwealth shall permit, at all reasonable hours, the code official reasonable access to existing structures or a structure under construction or renovation, for the purposes of performing an informational and advisory fire safety inspection. The code official may submit, subsequent to performing such inspection, any findings and recommendations including a list of corrective actions necessary to ensure that such structure is reasonably safe from the hazards of fire to the appropriate official of such agency, commission, or institution and the State Fire Marshal. Such agency, commission or institution shall notify, within 60 days of receipt of such findings and recommendations, the State Fire Marshal and the code official of the corrective measures taken to eliminate the hazards reported by the code official. The State Fire Marshal shall have the same power in the enforcement of this section as is provided for in Section F 105.0.~~

~~The State Fire Marshal may enter into an agreement as is provided for in § 36-139.4 of the Code of Virginia with any code official to enforce this section and to take immediate~~

~~enforcement action upon verification of a complaint of an imminent hazard such as a chained or blocked exit door, improper storage of flammable liquids, use of decorative materials, and overcrowding.~~

13 VAC 5-51-40. BNFPC Section F-105.0 Enforcement Authority. (Repealed.)

A. ~~Change subsection F 105.1 to read:~~

~~F 105.1. Local and state enforcement: Any local government may enforce this code. The State Fire Marshal shall also have the authority, in cooperation with any local governing body, to enforce this code. The State Fire Marshal shall also have the authority to enforce this code in those jurisdictions in which the local governments do not enforce this code. The local governing body may establish such procedures or requirements as may be necessary for the administration and enforcement of this code. It shall be the duty and responsibility of the designated code official to enforce the provisions of this code.~~

B. ~~Change subsection F 105.2 to read:~~

~~F 105.2. Appointment: The code official shall be appointed by the chief appointing authority of the jurisdiction, and the code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.~~

C. ~~Add subsection F 105.2.1 to read:~~

~~F 105.2.1. Certification: The code official shall obtain a certificate of competence from the Virginia Board of Housing and Community Development within three years after appointment unless appointed prior to April 1, 1994, with continued appointment.~~

D. ~~Add subsection F 105.2.2 to read:~~

~~F 105.2.2. Training: A code official that has not been certified shall attend the core module of the Virginia Building Code Academy or its equivalent in an individual or regional training academy accredited by the DHCD within 90 days after appointment.~~

E. ~~Add subsection F 105.2.3 to read:~~

~~F 105.2.3. Notification of appointment: The appointing authority of the jurisdiction shall notify the DHCD of the appointment of a code official within 30 days after such appointment.~~

F. ~~Add subsection F 105.3.1 to read:~~

~~F 105.3.1. Certification: The inspector or technical assistant having enforcement responsibility under this code shall obtain a certificate of competence in the appropriate subject areas from the DHCD within three years after appointment unless appointed prior to April 1, 1994, with continued appointment.~~

G. ~~Delete subsection F 105.5.~~

H. ~~Add subsection F 105.9 to read:~~

~~F 105.9. Continuing education: Code officials, inspectors and technical assistants enforcing this code shall attend periodic training courses as designated and provided by the DHCD.~~

13 VAC 5-51-50. BNFPC Section F-106.0 Duties and Powers of the Code Official. (Repealed.)

A. ~~Change subsection F 106.4 to read:~~

~~F 106.4. Inspections: The code official may make all of the required inspections or the code official may accept reports of inspections by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise subject to the approval of the appointing authority.~~

~~B. Change subsection F 106.6 to read:~~

~~F 106.6. Authority: The code official shall have authority as necessary in the interest of public health, safety and general welfare to implement the provisions of this code to secure the intent thereof, and to designate requirements applicable because of local and climatic or other conditions.~~

~~C. Change subsection F 106.7 to read:~~

~~F 106.7. Department records: The code official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records or shall be permitted to be disposed of in accordance with General Schedule Number Ten available from the Library of Virginia.~~

13 VAC 5-51-60. BNFPC Section F-107.0 Permits. (Repealed.)

~~A. Change subsection F 107.2 to read:~~

~~F 107.2. Permits required: Permits may be required by the code official as permitted under this code except that the code official shall require permits for the manufacturing, storage, handling, use, and sale of explosives. Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, and sale of explosives in localities not enforcing this code. Annual permits for the manufacturing, storage, handling, use, and sale of explosives shall be issued to any state regulated public utility. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the code official.~~

~~B. Add subsection F 107.2.4 to read:~~

~~F 107.2.4. Fees: Fees may be levied by the local governing body in order to defray the cost of enforcement of this code and appeals under Section F 113.0. Fees for permits issued by the State Fire Marshal's Office shall be as follows:~~

- ~~1. \$50 per year to possess, store and dispose of explosives and blasting agents.~~
- ~~2. \$75 per year to use explosives and blasting agents.~~

~~C. Change subsection F 107.7 to read:~~

~~F 107.7. Revocation of permit: The code official may revoke a permit or approval issued under the provisions of this code if, upon inspection, any violation of the code exists, or if conditions of a permit have been violated, or if there has been any false statement or misrepresentation as to material fact in the application, data or construction documents on which the permit or approval was based.~~

~~D. Add exception to subsection F 107.8 to read:~~

~~Exception: The code official is permitted to authorize delayed payment of fees.~~

13 VAC 5-51-70. BNFPC Section F-108.0 Inspection. (Repealed.)

~~A. Change subsection F 108.1 to read:~~

~~F 108.1. Inspection: The code official may inspect all structures and premises for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life or any violations of the provisions or intent of this code or any other ordinance affecting fire safety.~~

~~Exception: Single family dwellings and dwelling units in two family and multiple family dwellings and farm structures shall be exempt from routine inspections. This exemption shall not preclude the code official from inspecting for hazardous materials pursuant to §27-98.2 of the Code of Virginia.~~

~~B. Change subsection F 108.3 to read:~~

~~F 108.3. Right to entry: The code official is authorized to enter any structure or premises at any reasonable time to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.~~

~~Note: Specific authorization and procedures for inspections and issuing warrants are set out in §§ 27-98.1 through 27-98.5 of the Code of Virginia and shall be taken into consideration.~~

13 VAC 5-51-80. BNFPC Section F-109.0 Fire Investigation. (Repealed.)

~~Delete section F-109.0.~~

13 VAC 5-51-90. BNFPC Section F-110.0 Unsafe Conditions. (Repealed.)

~~Delete subsection F 110.3.1. Special equipment.~~

13 VAC 5-51-100. BNFPC Section F-111.0 Emergency Measures. (Repealed.)

~~Change subsection F 111.2 to read:~~

~~F 111.2. Unlawful continuance: Any person who refuses to leave, interferes with the evacuation of other occupants or continues any operation after having been given an evacuation order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this code.~~

13 VAC 5-51-110. BNFPC Section F-112.0 Violations. (Repealed.)

~~A. Change subsection F 112.1 to read:~~

~~F 112.1. Notice of violation: When the code official discovers a violation of a provision of this code or other codes or ordinances under the code official's jurisdiction, the code official shall prepare a written notice of violation citing the section violated, describing the condition deemed unsafe and specifying time limitations for the required repairs or improvements to be made to render the structure or premises safe and secure. Such order shall reference the section of this code that serves as the basis of the violation.~~

~~B. Change subsection F 112.2 to read:~~

~~F 112.2. Failure to correct violations: If the notice of violation is not complied with within the time specified by the code official, the code official shall request the legal counsel of the jurisdiction to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of any order or direction made pursuant thereto.~~

C. Change subsection F 112.3 to read:

~~F 112.3. Penalty for violations: Penalties for violations of this code shall be as set out in § 27-100 of the Code of Virginia.~~

D. Add subsection F 112.5 as follows:

~~F 112.5. Issuing summons for violation. When certified in accordance with § 27-34.2 of the Code of Virginia, the code official may issue a summons in lieu of a notice of violation.~~

13 VAC 5-51-120. ~~BNFPC Section F-113.0 Means of Appeal. (Repealed.)~~

A. Change subsection F 113.1 to read:

~~F 113.1. Application for appeal: Appeals concerning the application of this code by the code official shall first lie to the board of appeals established in Section F 113.2 and then to the TRB. Appeals from the application of this code by the State Fire Marshal shall be made directly to the TRB as provided in § 36-108 et seq. of the Code of Virginia. The appeal shall be submitted within 14 days of the application of this code.~~

B. Change subsection F 113.2 to read:

~~F 113.2. Board of appeals: There shall be established a board of appeals which shall consist of at least five members appointed by the chief appointing authority.~~

C. Change subsection F 113.2.1 to read:

~~F 113.2.1. Qualifications: To the extent such persons may be available, the board of appeals shall consist of individuals from each of the following professions or disciplines:~~

- ~~1. Registered design professional who is a registered architect, or a builder or superintendent of building construction with at least 10 years experience, five of which shall have been in responsible charge of work.~~
- ~~2. Registered design professional with structural engineering or architectural experience.~~
- ~~3. Registered design professional with mechanical or plumbing engineering experience, or a mechanical or plumbing contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~
- ~~4. Registered design professional with electrical engineering experience, or an electrical contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~
- ~~5. Registered design professional with fire protection engineering experience, or a fire protection contractor with at least 10 years experience, five of which shall have been in responsible charge of work.~~

~~The code official, technical assistants, inspectors, or other employees of the enforcement agency shall not serve as members of the board of appeals.~~

~~D. Change subsection F 113.2.2 to read:~~

~~F 113.2.2. Alternate members: The chief appointing authority shall be permitted to appoint two alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.~~

~~E. Delete subsection F 113.2.6.~~

~~F. Change subsection F 113.5 to read:~~

~~F 113.5. Postponed hearing: When a quorum of the board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.~~

~~G. Change subsection F 113.6 to read:~~

~~F 113.6 Board decision: The board shall rule by a concurring vote of a majority of members present.~~

~~H. Change subsection F 113.6.1 to read:~~

~~F 113.6.1. Resolution: The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and to the code official. The resolution shall contain a statement indicating that if further appeal is sought, application shall be made to the TRB within 21 days of receipt of the resolution.~~

~~I. Change subsection F 113.7 to read:~~

~~F 113.7. Appeal to the TRB: Appeals to the TRB from a decision of the board of appeals shall be made within 21 days of receipt of the resolution of the board of appeals.~~

13 VAC 5-51-11. Chapter 1, Administration, Section F-101.0. Scope.

A. F-101.1. Title: These regulations shall be known as the Virginia Statewide Fire Prevention Code (SFPC), hereinafter referred to as "this code" or "SFPC." The term "chapter" means a chapter in the SFPC. The SFPC was cooperatively developed by the Virginia Fire Services Board and the Virginia Board of Housing and Community Development.

B. F-101.2. Scope: The SFPC prescribes regulations to be complied with for the protection of life and property from the hazards of fire or explosion and for the handling, storage and use of explosives or blasting agents, and provides for the administration and enforcement of such regulations. The SFPC requires manufacturers of explosives to register and report information concerning their manufacturing facilities and methods of operation within this Commonwealth in accordance with the SFPC. The SFPC also establishes regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of explosives. Inspections under the SFPC are a governmental responsibility.

C. F-101.3. Purpose: The purposes of the SFPC are to provide for statewide standards for optional local enforcement to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling, and use of substances, materials and devices, including explosives and blasting agents, wherever located.

D. F-101.4. Validity: To the extent that any provisions of the SFPC or the referenced codes or standards are not within the scope of this chapter, those provisions are considered to be invalid. When any provision of the SFPC is found to be in conflict with the USBC, OSHA, or statute, that provision of the SFPC shall become invalid.

E. F-101.5. Local regulations: Any local governing body may adopt fire prevention regulations that are more restrictive or more extensive in scope than the SFPC provided such regulations are not more restrictive than the USBC and do not affect the manner of construction or materials to be used in the erection, alteration, repair, or use of a building or structure.

F. F-101.6. Exemption: Farm structures not used for residential purposes are exempt from the SFPC.

Exception: Inspections or reinspections of farm buildings, structures, property, or premises under search warrants issued pursuant to § 27-98.2 of the Code of Virginia are not exempt from the SFPC. When they are based upon a demonstration that, for the protection of life and property from the hazards of fire or explosion, the alleged unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, are probably occurring on such premises.

13 VAC 5-51-21. Section F-102.0. Applicability.

A. F-102.1. General: The provisions of the SFPC shall apply to all matters affecting or relating to structures, processes and premises as set forth in Section F-101.0. The SFPC shall supersede any fire prevention regulations previously adopted by a local government or other political subdivision.

B. F-102.2. Application to pre-1973 structures: Structures constructed prior to the USBC (1973) shall comply with the maintenance requirements of the SFPC to the extent that equipment, systems, devices, and safeguards which were required, provided and approved when constructed shall be maintained. Such structures, if subject to the state fire and public building regulations (Virginia Public Building Safety Regulations, VR 394-01-05) in effect prior to March 31, 1986, shall also be maintained in accordance with those regulations.

C. F-102.3. Application to post-1973 structures: Structures constructed under any edition of the USBC shall comply with the maintenance requirements of the SFPC to the extent that equipment, systems, devices, and safeguards which were required, provided and approved when constructed shall be maintained.

D. F-102.4. Subsequent alteration: Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of structures shall be subject to the current USBC.

E. F-102.5. State structures: The SFPC shall be applicable to all state-owned structures.

F. F-102.6. Relationship to USBC: Construction inspections of structures, other than state-owned structures, and the review and approval of their construction documents for enforcement of the USBC shall be the sole responsibility of the local building department.

G. F-102.7. Existing structures: Upon the completion of structures, responsibility for fire safety protection shall pass to the local fire code official or to the State Fire Marshal, who shall also have the authority, in cooperation with any local governing body, to enforce this code. The State Fire Marshal shall also have authority to enforce this code in those jurisdictions in which the local governments do not enforce this code.

H. F-102.8. Inspections for USBC requirements: The fire code official shall require that existing structures subject to the requirements of the USBC subsections 3402.3, 3402.4, 3402.5, 3402.6, 3402.6.1, 3402.7, 3402.10, 3402.12, 3402.13, 3402.14 and 3402.15 comply with the provisions of those subsections.

13 VAC 5-51-31. Section F-103.0. Incorporation by Reference.

A. F-103.1. General: The following document is adopted and incorporated by reference to be an enforceable part of the SFPC:

The BOCA National Fire Prevention Code/1996, Tenth Edition, hereinafter referred to as "BNFPC," published by Building Officials and Code Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103.

B. F-103.1.1. Deletion: Delete BNFPC Chapter 1.

C. F-103.2. Amendments: All requirements of the referenced codes and standards that relate to fees, permits, certification of fitness, unsafe notices, unsafe conditions, maintenance, disputes, condemnation, inspections, existing structures, certification of compliance, approval of construction documents and all other procedural, administrative and enforcement matters are deleted and replaced by the provisions of Chapter 1 of the SFPC. The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration and enforcement of the SFPC.

D. F-103.2.1. Other amendments: The SFPC contains provisions adopted by the Virginia Board of Housing and Community Development (BHCD), some of which delete, change or amend provisions of the BNFPC and referenced standards. Where conflicts occur between such changed provisions and the unchanged provisions of the BNFPC and referenced standards, the provisions changed by the BHCD shall govern.

Note: The BNFPC and its referenced standards contain some areas of regulation outside of the scope of the SFPC, as established by the BHCD and under state law. Where conflicts have been readily noted, changes have been made to the BNFPC and its referenced standards to bring it within the scope of authority; however, in some areas, judgment will have to be made as to whether the provisions of the BNFPC and its referenced standards are fully applicable.

13 VAC 5-51-41. Section F-104.0. Enforcement.

A. F-104.1. Local enforcement: Any local governing body shall be permitted to enforce the SFPC following official action by such body. The official action shall (i) require compliance with any or all the provisions of the SFPC and (ii) assign enforcement responsibility to the local agency or agencies of its choice. The terms "enforcing agency" and "fire code official" are intended to apply to the agency or agencies to which responsibility for enforcement of the SFPC has been assigned. The terms "building code official" or "building department" are intended to apply only to the local building code official or local building department.

B. F-104.1.1. Procedures: Any local governing body shall be permitted to establish such procedures or requirements as may be necessary for the administration and enforcement of this code. It shall be the duty and responsibility of the designated fire code official to enforce the provisions of the SFPC.

C. F-104.2. State enforcement: The State Fire Marshal shall have the authority to enforce the SFPC as follows:

1. *In cooperation with any local governing body;*
2. *In those jurisdictions in which the local governments do not enforce the SFPC; and*
3. *In all state-owned buildings and structures.*

D. F-104.3. State structures: Every agency, commission or institution of this Commonwealth, including all institutions of higher education, shall permit, at all reasonable hours, the fire code official reasonable access to existing structures or a structure under construction or renovation, for the purpose of performing an informational and advisory fire safety inspection. The fire code official is permitted to submit, subsequent to performing such inspection, his findings and recommendations, including a list of corrective actions necessary to ensure that such structure is reasonably safe from the hazards of fire, to the appropriate official of such agency, commission, or institution and the State Fire Marshal. Such agency, commission or institution shall notify, within 60 days of receipt of such findings and recommendations, the State Fire Marshal and the fire code official of the corrective measures taken to eliminate the hazards reported by the fire code official. The State Fire Marshal shall have the same power in the enforcement of this section as is provided for in § 27-98 of the Code of Virginia. The State Fire Marshal may enter into an agreement as is provided for in § 36-139.4 of the Code of Virginia with any local enforcement agency that enforces the SFPC to enforce this section and to take immediate enforcement action upon verification of a complaint of an imminent hazard such as a chained or blocked exit door, improper storage of flammable liquids, use of decorative materials, and overcrowding.

13 VAC 5-51-51. Section 105.0. Enforcing Agency.

A. F-105.1. Code official: Each enforcing agency shall have an executive official in charge, hereinafter referred to as the "fire code official" or "code official."

B. F-105.1.1. Appointment: The fire code official shall be appointed in a manner selected by the local government having jurisdiction. After appointment, the fire code official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority.

C. F-105.1.2. Notification of appointment: The appointing authority of the local governing body shall notify the DHCD of the appointment of a fire code official within 30 days after such appointment.

D. F-105.2. Certification: The fire code official shall obtain certification from the BHCD in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within three years after appointment.

Exception: A fire code official appointed prior to April 1, 1994, continuously employed by the same local governing body as the fire code official shall comply with required DHCD training under the Virginia Certification Standards (13 VAC 5-21-10 et seq.).

E. F-105.2.1. Noncertified: After appointment, a non-BHCD certified fire code official shall complete a DHCD orientation seminar within 60 days. In addition, within 180 days, such code official shall attend the core program of the Virginia Building Code Academy or its equivalent in a DHCD accredited academy.

F. F-105.3. Assistant: The local governing body or its designee may appoint one or more assistants who, in the absence of the fire code official, shall have the powers and perform the duties of the fire code official.

G. F-105.3.1. Certification: Any person employed by or under contract to an enforcing agency for enforcing the SFPC shall be certified in the appropriate subject areas in accordance with the Virginia Certification Standards (13 VAC 5-21-10 et seq.) within three years after appointment.

Exception: Any person continuously employed by or continuously under contract to the same enforcing agency for enforcing the SFPC since before April 1, 1994, shall be exempt from the provisions of this subsection; however, such exempt person shall comply with required DHCD training under Virginia Certification Standards (13 VAC 5-21-10 et seq.).

H. F-105.4. Continuing education: Code officials and assistants enforcing the SFPC shall attend periodic training courses as designated by the DHCD and such other training as designated by the local governing body.

I. F-105.5. Control of conflict of interest: The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639.1 et seq.) of Title 2.1 of the Code of Virginia.

13 VAC 5-51-61. Section F-106.0. Duties and Powers of the Code Official.

A. F-106.1. General: The fire code official shall enforce the provisions of the SFPC as provided herein and as interpreted by the State Building Code Technical Review Board (TRB) in accordance with § 36-118 of the Code of Virginia.

B. F-106.2. Delegation of duties and powers: The fire code official may delegate duties and powers subject to any limitations imposed by the local governing body. The fire code official shall be responsible that any powers and duties delegated are carried out in accordance with this code.

C. F-106.3. Inspections: The fire code official may make all of the required inspections or may accept reports of inspections by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by an agency officer or the individual. The code official may engage, subject to any limitations imposed by the local governing body, such expert opinion as deemed necessary to report upon unusual technical issues that arise.

D. F-106.3.1. Observations: When, during an inspection, the fire code official or an authorized representative observes an apparent or actual violation of another law, ordinance or code not within the official's authority to enforce, such official shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

E. F-106.4. Alternatives: The SFPC provisions are not intended to prevent the use of any safeguards used to protect life and property from the hazards of fire or explosion that are not specifically prescribed by the SFPC, provided that such alternative safeguards comply with the intent of the SFPC. The alternative safeguard offered shall be, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fireresistance, durability and safety.

F. F-106.5. Modifications: The fire code official may grant modifications to any provision of the SFPC upon application by the owner or the owner's agent provided the spirit and intent of the SFPC are observed and public health, welfare, and safety are assured.

G. F-106.5.1. Supporting data: The fire code official shall require that sufficient technical data be submitted to substantiate the proposed use of any alternative. If it is determined that the evidence presented is satisfactory proof of performance for the use intended, the fire code official

shall approve the use of such alternative subject to the requirements of this code. The fire code official may require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

H. F-106.5.2. Records: The application for modification and the final decision of the fire code official shall be in writing and shall be recorded in the permanent records of the local enforcing agency.

I. F-106.5.3. Supporting data: The fire code official shall require that sufficient technical data be submitted to substantiate the proposed use of any alternative. If it is determined that the evidence presented is satisfactory proof of performance for the use intended, the fire code official shall approve the use of such alternative subject to the requirements of this code. Supporting data, when required by the fire code official to assist in the approval of all materials or assemblies not specifically provided for in this code, shall consist of duly authenticated research reports from approved sources.

J. F-106.6. Notices and orders: The fire code official shall issue all necessary notices or orders to ensure compliance with the SFPC.

K. F-106.7. Department records: The fire code official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records or disposed of in accordance with General Schedule Number Ten available from The Library of Virginia.

13 VAC 5-51-71. Section F-107.0. Fees.

A. F-107.1. Local: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC.

B. F-107.2. State: Fees for permits issued by the State Fire Marshal's office shall be as follows:

- 1. \$50 per year per site to possess, store and dispose of explosives and blasting agents.*
- 2. \$75 per year per city or county to use explosives and blasting agents.*
- 3. No fee for the manufacture and sale of fireworks.*

C. F-107.3. Fee schedule: The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.

D. F-107.4. Payment of fees: A permit shall not be issued until the designated fees have been paid.

Exception: The fire code official may authorize delayed payment of fees.

13 VAC 5-51-81. Section F-108.0. Permits.

A. F-108.1. Prior notification: The fire code official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

B. F-108.2. Permits required: Permits may be required by the code official as permitted under the SFPC except that the fire code official shall require permits for the manufacturing, storage, handling, use, and sale of explosives.

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the fire code official is made annually by the Chief Arson Investigator listing all storage locations.

C. F-108.3. Application for permit: Application for a permit shall be made on forms prescribed by the fire code official.

D. F-108.4. Issuance of permits: Before a permit is issued, the fire code official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made comply with the provisions of this code.

E. F-108.5. Conditions of permit: A permit shall constitute permission to store or handle materials or to conduct processes in accordance with the SFPC, and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until revoked or for such period as specified on the permit. Permits are not transferable.

F. F-108.6. State Fire Marshal: Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, and sale of explosives in localities not enforcing the SFPC.

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the State Fire Marshal is made annually by the Chief Arson Investigator listing all storage locations.

G. F-108.7. Annual: The enforcing agency may issue annual permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

Exception: Such permits shall not apply to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

H. F-108.8. Approved plans: Plans approved by the fire code official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.

I. F-108.9. Posting: Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.

J. F-108.10. Suspension of permit: A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

K. F-108.11. Revocation of permit: The fire code official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the approved application, data or plans contain misrepresentation as to material fact.

13 VAC 5-51-91. Section F-109.0. Inspection.

A. F-109.1. Inspection: The fire code official may inspect all structures and premises for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire,

contribute to the spread of fire, interfere with firefighting operations, endanger life, or any violations of the provisions or intent of the SFPC.

Exception: Single family dwellings and dwelling units in two family and multiple family dwellings and farm structures shall be exempt from routine inspections. This exemption shall not preclude the code official from inspecting for hazardous materials pursuant to § 27-98.2 of the Code of Virginia.

B. F-109.1.1. Right to entry: The code official may enter any structure or premises at any reasonable time to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official may pursue recourse as provided by law.

Note: Specific authorization and procedures for inspections and issuing warrants are set out in §§ 27-98.1 through 27-98.5 of the Code of Virginia and shall be taken into consideration.

C. F-109.1.2. Credentials: The fire code official and assistants shall carry proper credentials of office when inspecting in the performance of their duties under the SFPC.

D. F-109.2. Coordinated inspections: The fire code official shall coordinate inspections and administrative orders with any other state and local agencies having related inspection authority, and shall coordinate those inspections required by the USBC for new construction when involving provisions of the amended BNFPC, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders.

Note: The USBC requires the building code official to coordinate such inspections with the fire code official.

E. F-109.3. Other inspections: The State Fire Marshal shall make annual inspections for hazards incident to fire in all (i) residential care facilities operated by any state agency; (ii) adult care residences licensed or subject to licensure under Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 of the Code of Virginia which are not inspected by a local fire marshal; (iii) student residence facilities owned or operated by the public institutions of higher education in the Commonwealth; and (iv) public schools in the Commonwealth which are not inspected by a local fire marshal. In the event that any such facility or residence is found nonconforming to the SFPC, the State Fire Marshal may petition any court of competent jurisdiction for the issuance of an injunction.

13 VAC 5-51-101. Section F-110.0. Unsafe Conditions.

A. F-110.1. General: The fire code official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC:

- 1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure, or to endanger the occupants thereof.*
- 2. Conditions which would interfere with the efficiency and use of any fire protection equipment.*
- 3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, which are liable to interfere with the egress of occupants or the operation of the fire department in case of fire.*
- 4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts.*

5. *Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.*
6. *Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.*
7. *Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.*
8. *Hazardous conditions arising from defective or improperly used or installed equipment for handling or using combustible, explosive or otherwise hazardous materials.*
9. *Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.*
10. *All equipment, materials, processes or operations which are in violation of the provisions and intent of this code.*

B. F-110.2. Maintenance: The owner shall be responsible for the safe and proper maintenance of any structure, premises or lot. In all structures, the fire protection equipment, means of egress, alarms, devices and safeguards required by the USBC shall be maintained in a safe and proper operating condition.

C. F-110.3. Occupant responsibility: If a building occupant creates conditions in violation of this code, by virtue of storage, handling and use of substances, materials, devices and appliances, such occupant shall be held responsible for the abatement of said hazardous conditions.

D. F-110.4. Unsafe structures: All structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe structures. A vacant structure, or portion of a structure, unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe structures shall be reported to the building code or building maintenance code official who shall take appropriate action under the provisions of the USBC to secure abatement.

E. F-110.5. Evacuation: When, in the fire code official's opinion, there is actual and potential danger to the occupants or those in the proximity of any structure or premises because of unsafe structural conditions, or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire code official may order the immediate evacuation of the structure or premises. All notified occupants shall immediately leave the structure or premises and no person shall enter until authorized by the fire code official.

F. F-110.6. Unlawful continuance: Any person who refuses to leave, interferes with the evacuation of other occupants or continues any operation after having been given an evacuation order shall be in violation of this code.

Exception: Any person performing work directed by the fire code official to be performed to remove an alleged violation or unsafe condition.

13 VAC 5-51-111. Section F-111.0. Violations.

A. *F-111.1. Notice: When the fire code official discovers an alleged violation of a provision of the SFPC or other codes or ordinances under the fire code official's jurisdiction, the code official shall prepare a written notice citing the section allegedly violated, describing the condition deemed unsafe and specifying time limitations for the required abatements to be made to render the structure or premises safe and secure.*

B. *F-111.2. Service: The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or, in the case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access. Such procedure shall be deemed the equivalent of personal notice.*

C. *F-111.3. Failure to correct violations: If the notice of violation is not complied with within the time specified, the fire code official shall request the legal counsel of the local governing body to institute the appropriate legal proceedings to restrain, correct or abate such alleged violation.*

D. *F-111.4. Penalty: Penalties upon conviction of violating the SFPC shall be as prescribed in § 27-100 of the Code of Virginia.*

E. *F-111.5. Summons: When certified in accordance with § 27-34.2 of the Code of Virginia, the fire code official shall, subject to any limitations imposed by the local governing body, be permitted to issue a summons in lieu of a notice of violation. Fire code officials not certified in accordance with § 27-34.2 of the Code of Virginia may request the law-enforcement agency of the local governing body to make arrests for any alleged violations of the SFPC or orders affecting the immediate public safety.*

13 VAC 5-51-121. Section F-112.0. Appeals.

A. *F-112.1. Application for appeal: Appeals concerning the application of the SFPC by the fire code official shall first lie to the local board of fire prevention code appeals (BFPCA) and then to the TRB. Appeals from the application of this code by the State Fire Marshal shall be made directly to the TRB as provided in Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. The appeal shall be submitted within 14 calendar days of the application of the SFPC.*

B. *F-112.1.1. Local Board of Fire Prevention Code Appeals (BFPCA): Each local governing body which enforces the SFPC shall have a BFPCA to hear appeals as authorized herein or it shall enter into an agreement with the governing body of another county or municipality, with some other agency, or with a state agency approved by the DHCD to act on appeals. An appeal case decided by some other approved agency shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).*

C. *F-112.2. Membership: The BFPCA shall consist of at least five members appointed by the local governing body and having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary*

shall be maintained in the office of the local governing body. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

D. F-112.2.1. Chairman: The BFPCA shall annually select one of its regular members to serve as chairman. In case of the absence of the chairman at a hearing, the members present shall select an acting chairman.

E. F-112.2.2. Secretary: The local governing body shall appoint a secretary to the BFPCA to maintain a detailed record of all proceedings.

F. F-112.3. Qualifications of members: BFPCA members shall be selected by the local governing body on the basis of their ability to render fair and competent decisions regarding application of the SFPC and shall, to the extent possible, represent different occupational or professional fields relating to building construction or fire prevention. At least one member should be an experienced builder and one member a licensed professional engineer or architect. Employees or officials of the local governing body shall not serve as members of the BFPCA.

G. F-112.4. Disqualification of member: A member shall not hear an appeal in which that member has conflict of interest in accordance with the State and Local Government Conflict of Interests Act, Chapter 40.1 (§ 2.1-639 et seq.) of Title 2.1 of the Code of Virginia.

H. F-112.5. Application for appeal: The owner of a structure, the owner's agent or any other person involved in the design, construction or maintenance (Part B) of the structure may appeal a decision of the code official concerning the application of the USBC or the code official refusal to grant modification to the provisions of the USBC covering the manner of construction or materials to be used in the erection, alteration or repair of that structure. The applicant shall submit a written request for appeal to the BFPCA within 90 calendar days from the receipt of the decision to be appealed. The application shall contain the name and address of the owner of the structure and the person appealing if not the owner. A copy of the written decision of the code official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BFPCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the code official's decision.

I. F-112.6. Notice of meeting: The BFPCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

J. F-112.7. Hearing procedures: All hearings before the BFPCA shall be open to the public. The appellant, the appellant's representative, the local governing body's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

K. F-112.7.1. Postponement: When a quorum of the BFPCA is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. The BFPCA shall reschedule the appeal within 30 calendar days of the postponement.

L. F-112.8. Decision: The BFPCA shall have the power to uphold, reverse or modify the decision of the code official by a concurring vote of a majority of those present. Decisions of the BFPCA shall be final if no appeal is made therefrom and the appellant and the code official shall act accordingly.

M. F-112.8.1. Resolution: The BFPCA 's decision shall be by resolution signed by the chairman and retained as part of the record by the BFPCA. The following wording shall be part of the resolution: "Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board (TRB) by submitting an application to the TRB within 21 calendar days. Application forms are available from the Office of the TRB, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7170." Copies of the resolution shall be furnished to all parties.

N. F-112.9. Appeal to the TRB: After final determination by the BFPCA, any person who was a party to the local appeal may appeal to the TRB. Appeals from the decision of the code official for state-owned structures shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BFPCA's resolution or code official's decision.

O. F-112.9.1. Information to be submitted: Copies of the code official's decision and the resolution of the BFPCA shall be submitted with the application for appeal. Upon request by the office of the TRB, the BFPCA shall submit a copy of all pertinent information from the record of the BFPCA. In the case of state-owned buildings, the involved state agency shall submit a copy of the code official's decision and other relevant information.

P. F-112.9.2. Decision of TRB: Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the appellant and the code official shall act accordingly.

13 VAC 5-51-130. BNFPC Section F-202.0. General Definitions.

A. Add the following definitions:

Blaster, restricted: See Section F-3002.0.

Blaster, unrestricted: See Section F-3002.0.

DHCD: The Virginia Department of Housing and Community Development.

Local government: The governing body of any county, city, or town in this Commonwealth.

State Fire Marshal: The State Fire Marshal as provided for by § 36-139.2 of the Code of Virginia.

State Regulated Care Facility (SRCF): A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education or Virginia Department of Juvenile Justice (Use Groups R-2, R-3 and R-4 only).

TRB: The Virginia State Building Code Technical Review Board.

USBC: The Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.)

B. Change the following definition to read:

Code official: The officer or other designated authority charged with administration and enforcement of this code, or a duly authorized representative. For the purpose of this code, the term "code official" shall have the same meaning as used in § 27-98.1 of the Code of Virginia.

13 VAC 5-51-133. BNFPC Section F-506.0. Water-Based Fire Protection Systems.

Add exception to subsection F-506.1 to read:

Exception: When the code official determines through investigation or testing or reports by a nationally recognized testing agency that specific, required water sprinkler or water-spray extinguishing equipment has been identified as failing to perform or operate through not less than 30 randomly selected sprinkler heads at four or more building sites anywhere in the nation, the code official shall order all such equipment to be rendered safe.

13 VAC 5-51-135. BNFPC Section F-701.0. General.

Add subsection F-701.1.1 to read:

F-701.1.1. State Regulated Care Facilities: SRCF shall comply with this section and the provisions of section F-704.0.

13 VAC 5-51-136. BNFPC Section F-704.0. Use Group I-1-Residential Care.

Add subsection F-704.3.1 to read:

F-704.3.1. State Regulated Care Facilities: Fire exit drills for SRCF shall be conducted not less than 12 times per year. Not less than six of the drills are required to be unannounced.

13 VAC 5-51-150. BNFPC Section F-3001.0. General.

A. Change subsection F-3001.1 to read:

F-3001.1. Scope: The equipment, processes and operations involving the manufacture, possession, storage, sale, ~~transportation~~, maintenance, and use of explosive materials shall comply with the requirements of this code, NFPA 495 and DOTn 49 CFR listed in Chapter 44 of this code, except that the year edition of NFPA 495 referenced shall be 1996.

B. ~~Add exception~~ Change exceptions to subsection F-3001.1 to read:

Exception: This chapter shall not apply to the following:

- 1. The use of explosives by federal or state military agencies or federal, state or municipal agencies while engaged in normal or emergency performance of duties.*
- 2. The manufacture and distribution of explosive materials to or storage of explosive materials by military agencies of the United States.*
- 3. The use of explosive materials in medicines and medicinal agencies in the forms prescribed by the U.S. Pharmacopeia or the National Formulary.*
- 4. Pyrotechnics such as flares, fuses and railway torpedoes.*
- 5. Common fireworks in accordance with Chapter 31.*
- 6. The possession and use of not more than 15 pounds (7 kg) of smokeless powder and 1,000 small arms primers for hand loading of small arms ammunition for personal use.*

7. The storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.

Note: Enforcement of the Regulations Governing the Transportation of Hazardous Materials as promulgated by the Virginia Department of Environmental Quality, Waste Management Board, is provided by the Department of State Police together with all law-enforcement and peace officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation, Research and Special Programs, and Office of Hazardous Materials Transportation in federal safety regulations and safety inspections procedures pertaining to the transportation of hazardous materials.

C. Change subsection F-3001.2 to read:

F-3001.2. Approval required: Approval shall be required for the following conditions or operations:

- 1. The manufacture, possession, storage, sale or other disposition of explosive materials.*
- 2. The use of explosive materials.*
- 3. The operation of a terminal for handling explosive materials.*
- 4. The delivery to or receipt of explosive materials from a carrier at a terminal between the hours of sunset and sunrise.*

~~C.~~ D. Add exception to subsection F-3001.3 to read:

Exception: A bond is not required for blasting on real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia and conducted by the owner of such real estate.

13 VAC 5-51-170. BNFPC Section F-3003.0. General Requirements.

A. Add subsection F-3003.5 to read:

F-3003.5. Certification of blasters: Persons engaging in the use of explosives or blasting agents shall be certified as a restricted or unrestricted blaster by the DHCD or shall be supervised on-site by a person properly certified by DHCD as a restricted or unrestricted blaster. Certificates will be issued upon proof of successful completion of an examination approved by the DHCD. The applicant for certification shall be at least 21 years of age and shall submit proof to the DHCD of the following experience:

1. For certification as a restricted blaster, at least one year under direct supervision by a certified unrestricted blaster, certified restricted blaster or other person approved by the DHCD.
2. For certification as an unrestricted blaster, at least one year under direct supervision by a certified unrestricted blaster or other person approved by the DHCD. Exception: The owner of real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in §58.1-3230 of the Code of Virginia when blasting on such real estate.

B. Add subsection F-3003.5.1 to read:

F-3003.5.1. Fee for certification: The fee for obtaining a certificate or renewal of a certificate for unrestricted or restricted blaster from DHCD shall be \$30.

C. Add subsection F-3003.5.2 to read:

F-3003.5.2. Renewal of certificate: A certificate for an unrestricted or restricted blaster shall be valid for three years from the date of issuance. Renewal of the unrestricted blaster certificate will be issued upon proof of at least 16 hours of continued training or education in the use of explosives within three consecutive years. Renewal of the restricted blaster certificate will be issued upon proof of at least eight hours of continued training or education in the use of explosives within three consecutive years.

D. Add subsection F-3003.6 to read:

F-3003.6. Reports of stolen explosives: Any person holding a permit for the manufacture, storage, handling, use, or sale of explosives issued in accordance with this code shall report to the office of the chief arson investigator for the Commonwealth and the code official as well as the chief local law-enforcement official any theft or other unauthorized taking or disappearance of any explosives or blasting devices from their inventory. An initial verbal report shall be made within three days of the discovery of the taking or disappearance. A subsequent written report shall be filed within such time, and in such form, as is specified by the chief arson investigator.

E. Add subsection F-3003.7 to read:

F-3003.7. Report of injuries or property damage: Any person holding a permit for the use of explosives issued in accordance with this code shall report any injuries to any person or damage to property arising from the use of explosives under the permit to the code official where there is local enforcement of this code and to the State Fire Marshal.

F. Delete Section F-3005.0. Transportation of Explosives.

~~F. G.~~ Add subsection F-3009.12 to read:

F-3009.12. Blast records: A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the code official. The record shall contain the following minimum data:

1. Name of contractor;
2. Location and time of blast;
3. Name of certified blaster in charge;
4. Type of material blasted;
5. Number of holes bored and spacing;
6. Diameter and depth of holes;
7. Type and amount of explosives;
8. Amount of explosive per delay of 8 milliseconds or greater;
9. Method of firing and type of circuit;

10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building;
11. Weather conditions;
12. Whether or not mats or other precautions were used;
13. Type of detonator and delay period;
14. Type and height of stemming; and
15. Seismograph record where indicated.

Exception: Subdivisions 8 and 13 of this section are not applicable to restricted blasters.

13 VAC 5-51-181. BNFPC Section F-3102.0. Definitions.

Change subsection F-3102.1 to read:

F-3102.1. General: The following words and terms shall, for the purpose of this chapter and as stated elsewhere in this code, have the meanings shown herein.

Fireworks: Fireworks include any combustible or explosive composition, and any substance and combination of substances and articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. Fireworks shall include any firecracker, torpedo, skyrocket, or other substance or thing, of whatever form or construction, that contains any explosive or inflammable compound or substance, is intended or commonly known as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air, other than sparks.

The term "fireworks" shall not include items such as sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels, commonly known as whirligigs or spinning jennies, when used, ignited or exploded on private property with the consent of the owner of such property.

13 VAC 5-51-182. BNFPC Section F-3103.0. Sale and Discharge.

A. Change subsection F-3103.1 to read:

The rules and regulations for fireworks shall be in accordance with NFPA 1123 and 1124 listed in Chapter 44. The rules and regulations for pyrotechnics shall be in accordance with NFPA 1126 listed in Chapter 44.

B. Change subsection F-3103.2 to read:

F-3103.2. Violations: A person shall not manufacture, store, offer or expose for sale, sell at retail or discharge any fireworks, except for the approved supervised display of fireworks and legal fireworks on private property with the consent of the owner of such property.

13 VAC 5-51-190. BNFPC Section F-3207.0. Aboveground Storage Tanks.

A. Change subsection F-3207.5 to read:

F-3207.5. Automotive service stations (nonpublic): Aboveground tanks utilized for the storage of motor fuels at automotive service stations to which the public does not have access shall be installed in accordance with this section and the requirements for fireresistant tanks or tanks in vaults specified in NFPA 30A listed in Chapter 44.

B. Add subsection F-3207.6 to read:

F-3207.6. Automotive service stations (public): Aboveground tanks utilized for the storage of motor fuels at automotive service stations to which the public does have access shall be installed in accordance with the requirements for aboveground tanks at automotive service stations specified in NFPA 30A listed in Chapter 44.

13 VAC 5-51-200. BNFPC Chapter 44 Referenced standards.

Add the following referenced standard to "NFPA" to read:

<i>Standard reference number</i>	<i>Title</i>	<i>Referenced in code section number</i>
1126-96	Use of Pyrotechnics before a Proximate Audience	F-3103.1